

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ALONZO MORRIS,	§
	§ No. 47, 2011
Defendant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for Sussex County
STATE OF DELAWARE,	§ Cr. ID No. 9911000751
	§
Plaintiff Below-	§
Appellee.	§

Submitted: March 18, 2011

Decided: April 12, 2011

Before **STEELE**, Chief Justice, **JACOBS** and **RIDGELY**, Justices.

ORDER

This 12th day of April 2011, upon consideration of the appellant's opening brief and the appellee's motion to affirm pursuant to Supreme Court Rule 25(a), it appears to the Court that:

(1) The defendant-appellant, Alonzo Morris, filed an appeal from the Superior Court's January 18, 2011 order denying his second motion for postconviction relief pursuant to Superior Court Criminal Rule 61. The plaintiff-appellee, the State of Delaware, has moved to affirm the Superior Court's

judgment on the ground that it is manifest on the face of the opening brief that the appeal is without merit.¹ We agree and affirm.

(2) In March 2000, Morris was found guilty by a Superior Court jury of Assault in the First Degree and Possession of a Deadly Weapon During the Commission of a Felony. On direct appeal² the Superior Court's judgment was reversed and Morris's convictions were vacated by this Court. After a second trial in November 2002, Morris was again convicted of the assault and weapon charges. On direct appeal, this Court affirmed Morris's convictions.³ In March 2005, Morris filed his first postconviction motion under Rule 61. The Superior Court's denial of the motion was affirmed by this Court.⁴

(3) On this appeal from the Superior Court's denial of his second postconviction motion, Morris claims that the Superior Court abused its discretion by denying the motion because Morris had a conflict with his counsel that constituted a colorable claim of a miscarriage of justice under Rule 61(i)(5).

(4) Morris's claim is clearly time-barred⁵ and he has presented no evidence of a miscarriage of justice occasioned by a violation of his constitutional rights.⁶ Moreover, in this Court's 2006 decision affirming the Superior Court's

¹ Supr. Ct. R. 25(a).

² *Morris v. State*, 795 A.2d 653 (Del. 2002).

³ *Morris v. State*, Del. Supr., No. 21, 2003, Steele, J. (Mar. 3, 2004).

⁴ *Morris v. State*, Del. Supr., No. 215, 2005, Jacobs, J. (Apr. 13, 2006).

⁵ Super. Ct. Crim. R. 61(i)(1).

⁶ Super. Ct. Crim. R. 61(i)(5).

denial of Morris's first postconviction motion, we explicitly determined that Morris's claim that a conflict of interest with his counsel negatively affected the outcome of his trial, was without merit. As such, Morris's instant claim also is procedurally barred as previously adjudicated.⁷ In the absence of any evidence that the claim is worthy of reconsideration,⁸ we conclude that the Superior Court's judgment must be affirmed.

(5) It is manifest on the face of the opening brief that this appeal is without merit because the issues presented on appeal are controlled by settled Delaware law and, to the extent that judicial discretion is implicated, there was no abuse of discretion.

NOW, THEREFORE, IT IS ORDERED that the State's motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED.⁹

BY THE COURT:

/s/ Henry duPont Ridgely
Justice

⁷ Super. Ct. Crim. R. 61(i)(4).

⁸ Id.

⁹ Morris's February 7, 2011 motion for expansion of the record, which was held in abeyance pending the Court's decision on the merits, is hereby denied as moot.